

Minutes Tempe Police Public Safety Personnel Retirement System Board June 4, 2020

Minutes of the Tempe Police Public Safety Personnel Retirement System Board meeting hosted virtually via Cisco Webex on Thursday, June 4, 2020, 2:00 p.m. from the City of Tempe Finance Conference Room, 20 E. 6th Street, 2nd Floor, Tempe, Arizona.

Board Members Present (via Cisco Webex online):

Steven Methvin
Rob Ferraro
Alex Moreno
Johnny Tse

Board Members Absent:

Bill Goodman

City Staff Present (via Cisco Webex online):

Renie Broderick, Internal Services Director
Chris Hansen, Risk Manager
Tammy Milhon, HR Specialist
Susan Buck, Executive Assistant

Legal Counsel Present (via Cisco Webex online)

Lesli Sorensen

Chair Steven Methvin called the meeting to order at 2:51 p.m.

1. Consideration of Meeting Minutes:

Motion by Alex Moreno to approve the May 7, 2020 Board meeting minutes; second by Johnny Tse.
Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

2. Motion to Adjourn to Executive Session, if necessary:

See Item No 4.

3. Applications to Retire from the Deferred Retirement Option Plan (DROP):

Motion by Alex Moreno to approve the applications to retire from DROP of **Jonathan R. King**, with a retirement date of June 18, 2020, and **Mark D. LaBelle**, with a retirement date of June 3, 2020; second by Rob Ferraro. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

4. Hearing on Application for Accidental Disability Benefits – Paul Colborn:

Motion to Adjourn to Executive Session by Alex Moreno; second by Johnny Tse. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

The Board adjourned to Executive Session at 2:56 pm. During the Executive Session, the Board considered matters for Agenda Items 4 and 5. The meeting reconvened at 3:30 pm.

Chair Methvin opened the hearing on the application for accidental disability benefits of **Paul Colborn**, noting that Mr. Colborn's initial hearing was held on March 5, 2020, the Board is now in receipt of the Independent Medical Exam (IME) report from the medical board, and at today's hearing the Board must determine whether the documentation is sufficient to make a determination on Mr. Colborn's application.

Chair Methvin asked if anyone wished to address the Board regarding this hearing; there was no response. Chair Methvin opened the item for discussion by the Board.

Boardmember Alex Moreno stated that on the Accidental Disability Questionnaire completed by the IME doctor, the doctor indicates that Mr. Colborn *does* have the physical or mental condition that is the basis for his disability application; and in the IME report, the doctor further states that the condition permanently prevents Mr. Colborn from performing the highest level of physical activities in the job as police officer. Boardmember Moreno stated the IME report then goes to state that Mr. Colborn has restrictions that would prevent him from being able to perform necessary functions of the job such as a physical arrest, although he may be able to perform more desk-related duty. Boardmember Moreno noted that every sworn police officer, even those working a desk and not making physical arrests on a day-to-day basis, are still required to be able to put on the uniform and make arrests, if needed.

Board Legal Counsel Lesli Sorensen queried if Boardmember Moreno was noting conflicts in the medical record. Boardmember Moreno clarified that the doctor seemed to indicate that Mr. Colborn could perform a desk job, with certain permanent restrictions that would limit him from being able to perform the highest level of physical activity as a police officer, such as an arrest. Boardmember Moreno noted that the City does not offer that type of light duty as a police officer on a permanent basis.

Ms. Sorensen inquired if the Board has examined the duties of a police officer at the City of Tempe. Boardmember Rob Ferraro stated that in looking at the full range of duties of a Tempe police officer, approximately 90-95% of those duties might require an officer at some point to make a forcible arrest. Boardmember Ferraro noted that all the doctors in the medical record stated that the condition is permanent and that it was incurred in the performance of job duties. Boardmember Ferraro further noted that in the Police Department's current deployment as of June 4, 2020, all officers at Tempe Police Department are required to have their uniform and equipment available to deploy at a moment's notice in the field.

Ms. Sorensen noted that the Local Board responsibilities include addressing any conflicts in the medical evidence and noting how those conflicts were resolved in the meeting minutes. Ms. Sorensen recapped the Board discussion, stating that notwithstanding the fact that the IME states that the applicant's injury does not totally and permanently prevent the applicant from performing a reasonable range of duties in the employee's job classification, the Local Board can indicate that based

on their own review of both the IME's information about permanency and total disability, as well as the duties of a Tempe police officer, the Local Board resolves that conflict by determining that the disability does totally and permanently prevent Mr. Colborn from performing a reasonable range of duties.

The Board generally discussed the actions possible on the application. Boardmember Moreno stated that the IME indicates that the injury incurred on the job; it permanently prevents Mr. Colborn from performing the highest level of the job as police officer; and based on the job description, while the doctor does give certain limited job abilities that Mr. Colborn could perform, he could not perform the range of duties of the job as required by the City of Tempe.

Motion by Alex Moreno to approve the claim for accidental disability benefits of **Paul Colborn**; second by Rob Ferraro. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

The following questions from the Form P5-LB-A, Accidental Disability Questionnaire were read aloud, and the Board verbally answered them for the record:

1. Did the employee file the application after the disabling incident, or within one year of ceasing to be an employee? **YES**
2. Did (or will) the employee terminate by reason of a disability? **YES**
3. Did employment terminate based on a disciplinary issue? **NO**
4. If the member's period of DROP has ended, if applicable, did (or will) the employee terminate by a reason of disability? The Board noted that this question is **not applicable** (Mr. Colborn is not in DROP).
5. Is the employee still working a position within their job classification that the Local Board considers a reasonable range of duties position? **NO**
6. Has the employee refused a position within their job classification that the Local Board considered a reasonable range of duties? **NO**
7. Did the injury or condition occur prior to the current PSPRS membership date? **NO**
8. Was the injury or condition the result of an event incurred during the performance of the employee's duty?
YES

5. Initial Hearing on Applications for Accidental Disability Benefits:

The Board previously discussed Agenda Item 5 during an Executive Session as noted under Agenda Item 4.

Chair Methvin opened the initial hearing on the application for accidental disability benefits of **Lindsay Long**, stating that the Board must determine whether the documentation submitted is sufficient to conclude that the statutory requirements are satisfied for the Board to send Ms. Long for an Independent Medical Examination (IME).

Chair Methvin asked if anyone wished to address the Board regarding this hearing; there was no response. Chair Methvin opened the item for discussion by the Board. Boardmember Ferraro stated that in reviewing the medical records provided it is clear that the statutory requirements are met and that the application should move forward to an IME.

Motion by Rob Ferraro that the application of **Lindsay Long** be moved forward to an IME; second by Johnny Tse. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

Chair Methvin opened the initial hearing on the application for accidental disability benefits of **Mark Pooley**, stating that the Board must determine whether the documentation submitted is sufficient to conclude that the statutory requirements are satisfied for the Board to send Mr. Pooley for an Independent Medical Examination (IME).

Chair Methvin asked if anyone wished to address the Board regarding this hearing. Mr. Pooley's legal counsel, Dale Norris, addressed the Board. Mr. Norris noted that a written statement from Mr. Pooley was submitted to the Board, along with supplemental information from Mr. Norris supporting that statement. Mr. Norris stated that he and Mr. Pooley were both present and would be happy to answer any questions. There were no questions from the Board.

Chair Methvin opened the item for discussion by the Board. Boardmember Ferraro stated that the medical records provided show that statutory requirements are met.

Motion by Rob Ferraro to move the application of **Mark Pooley** forward to an IME; second by Alex Moreno. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

6. Board Expenditures – 4th Quarter 2019 and 1st Quarter 2020:

Ms. Broderick stated a list of board expenditures for 4th quarter 2019 and 1st quarter 2020 were included in the meeting packet for the Board's review. There was no further discussion on this item.

7. Future Meeting Date:

The next meeting is scheduled for July 2, 2020. Chair Methvin noted that at the Fire Board meeting, staff was directed to cancel the July meeting unless there is a pending member application that needs to be addressed.

8. Future Agenda Items:

- Discussion Regarding Tier Implications / Employer Contributions
- Discussion Regarding Terminating Employment via DROP vs. Disability
- Clarification of Previously Approved New Member – Joseph Ludlum

9. Public Appearances:

Executive Assistant Susan Buck stated there were no public comments submitted to the Board via email prior to the meeting or online during the meeting

Adjournment

Motion to adjourn by Alex Moreno; second by Johnny Tse. Motion passed on a voice vote 4-0.

Ayes: Chair Methvin; Boardmembers Ferraro, Moreno and Tse

Nays: None

Absent: Boardmember Goodman

The meeting adjourned at 3:56 p.m.


Rebecca Strisko, Local Board Secretary